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LRB-1544/3 MES:kmg&jlg:km

1997 ASSEMBLY BILL 315

April 24, 1997 – Introduced by Representatives Freese, Gronemus, Hahn, Wieckert, Sykora, Huebsch, Hasenohrl, Kreibich, Springer, Musser, Schafer, Dobyns, Gard, M. Lehman, Ainsworth, Powers, Owens, Otte, Hoven, Zukowski, Ladwig, Skindrud, Duff, Gunderson, Lorge, Grothman, Goetsch, Olsen, Ward, Harsdorf, Albers, Ott, Johnsrud, Green and Lazich, cosponsored by Senators Schultz, Rude, Clausing, Panzer and Buettner. Referred to Joint survey committee on Tax Exemptions.

AN ACT to create 71.05 (6) (b) 25. of the statutes; relating to: excluding from income taxation certain gains derived from the transfer of business or farming

assets to family members.

Analysis by the Legislative Reference Bureau

Under current law, there is an income tax exclusion for 60% of the capital gain from the sale of assets held at least one year and on all assets acquired from a decedent.

This bill allows an income tax exclusion for 100% of the capital gains, and other gains that are treated as capital gains, realized from the transfer of business or farming assets that are held for more than one year to a family member, to the extent that the capital gains and the other gains on such assets are not excluded from taxation under current law. The exclusion may be claimed only if the transfer is to a person such as a parent, grandparent, child, grandchild, great–grandchild, sibling, aunt, uncle, niece or nephew of the transferor.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to the bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 315

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SECTION 1. 71.05 (6) (b) 25. of the statutes is created to read:

71.05 (6) (b) 25. To the extent that the gains are not excluded from taxation under subd. 9., on business assets or on assets used in farming, including shares in a corporation or trust that meets the standards under s. 182.001 (1), or both, held more than one year, that are sold or otherwise disposed of to persons who are related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship as that term is used in s. 852.03 (2), 100% of the capital gains, including gains treated as capital gains under section 1231 of the Internal Revenue Code, as computed under the Internal Revenue Code, not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage.

SECTION 2. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this act takes effect.

16 (END)